

IN THE HIGH COURT OF UTTARANCHAL AT
NAINITAL

WRIT PETITION NO.1496 (MS) OF 2005

Smt. Prem Bala, W/o Sri J.S. Ramola, R/o Below Back Mall
Road, Mussoorie, Dehradun. Petitioner.

Versus

Rent Control & Eviction Officer, Mussoorie, District-
Dehradun. Respondents.

18.05.2006

Hon'ble Rajesh Tandon, J.

Heard Sri B.P. Nautiyal Advocate for the petitioner and
Standing Counsel for the respondent.

By the present writ petition, the petitioner has prayed for
a writ of certiorari quashing the vacancy proceedings pending
before the respondent regarding the disputed property i.e.
Estern Flat Below Back, Mall Road Mussoorie, which is under
the tenancy of the petitioner.

Briefly stated, according to the case of the petitioner, he
is tenant in possession of the disputed accommodation known
as Estern Flat Below Back, The Mall Road, Mussoorie. The
proceedings were started earlier under Section 12/16 of the
U.P. Act NO. 13 of 1972. The petitioner has objected to the said
proceedings on the ground that there existed no vacancy. A
revision was filed, the Revisional Court has also recorded a
findings that there is no vacancy.

The short grievance of the petitioner is that he has
already filed an objection before the Rent Control and Eviction
Officer along with a prayer that the present proceedings are
barred by the principles of res-judicata as the same cannot be

initiated again and again in the light of the judgment and order given by the Rent Control and Eviction officer as well as the District Judge.

In view of the above, the Rent Control & Eviction officer is directed to decide the question of maintainability of the petition U/s 12/16 of U.P. Act No. 13 of 1972 by disposing of the objections in accordance with law in the light of the earlier judgments of the Rent Control and Eviction Officer as well as District Judge.

Subject to the aforesaid, writ petition is disposed of. No order as to costs.

Copy of the order to be given today.

(Rajesh Tandon, J.)

18.05.2006

Rathour